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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,159	03/14/2002	Harald Ristau	361.034	2906

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EXAMINER

WILSON, LEE D

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/088,159

Applicant(s)

RISTAU, HARALD

Examiner

LEE D WILSON

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Information Disclosure Statement***

1. The 1449 has been reviewed.

***Drawings***

2. New formal drawings are required in this application because the present drawings have poor line quality and are lack clarity. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**a. The following phrases are vague, indefinite, and/or awkwardly and confusingly worded:**

- i. Claim 1 is indefinite because the two parts are detachable and connectable.

Please change "can be" to "are". This would be consistent with the disclosure.

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ii. "the opening is passed in one go ambient air" in claim 1, line 20. This awkwardly written because it does not make sense.

iii. "characterised" in claim 2, line 2. This language is not standard U.S. practice and the applicant should amended this language.

***Claim Rejections - 35 USC § 103***

4. The following art rejections are applied as best as possible in view of the numerous 112 rejections.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 86/04819 in view of Arai (5184858).

a. WO 86/04819 discloses a vacuum holding device having a vacuum holding device (fig.1) which is detachable from a vacuum source (26), a vacuum chamber (12), a valve (66), a mean for detaching a vacuum (fig.1), a piston (28), and piston suction pipe (75).

b. WO 86/04819 does not disclose a rubber material for a seal.

c. Arai disclose a vacuum device having a rubber seal (1) which is used to create an air tight vacuum.

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d. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the WO 86/04819 device by providing a vacuum seal using rubber as taught by Arai which is used to create an air tight vacuum.

e. WO 86/04819 discloses the claimed invention except for valve being made out of rubber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a valve out of rubber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin, 125 USPQ 416.*

f. In regard to claim 12, WO 86/04819 discloses the claimed invention except for valve with a strip or rod shaped valve being made out of rubber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made valve with a strip or rod shaped valve being made out of rubber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and then shape the valve in accord with its intended use. *In re Leshin, 125 USPQ 416.* and Obvious Design choice.

g. In regard to claim 9, the method is merely the natural function of the claimed apparatus.

***Response to Arguments***

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7. **Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.**

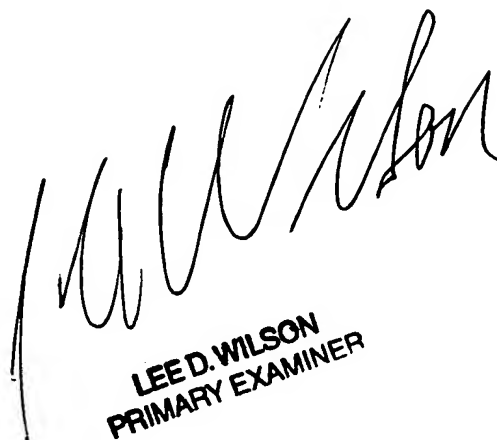
a. The applicants prior art has been applied against the claims.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Wilson whose telephone number is (703) 305-4094.

ldw

February 27, 2003

  
LEE D. WILSON  
PRIMARY EXAMINER